IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

WP(C).No. 17976 of 2007(M)

LAR.49/2001 of ADDL.SUB COURT,KOLLAM
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PETITIONER:

PRASANNA KUMARI,
KOLLAPRATHU VEEDU, PONMANA P.O.,
NOW RESIDING AT KUTTI PADINJATTATHIL,
PONMANA P.O., CHAVARA, KOLLAM.

BY ADV. SRI.B.SURESH KUMAR

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY THE DISTRICT COLLECTOR,
KOLLAM.

BY GOVERNMENT PLEADER SMT. R. BINDU.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/06/2007, ALONG WITH WPC 17978/07 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 17976 & 17978 OF 2007

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Dated this the 21st day of June, 2007.

J U D G M E N T

These writ petitions are filed challenging the orders in LAR 49/01 and LAR 48/01 of the Addl. Subordinate Judge's Court, Kollam. It was a reference under the provisions of the Land Acquisition Act. The claimants did not appear before the Court so both the claimants were recorded as absent and the Court simply passed a one line award that the compensation awarded by the Land Acquisition Officer is just and proper. There cannot be any dispute that the Land Acquisition court is not competent to dismiss a reference for default and is bound to enter into a finding on the adequacy of the compensation claimed under the provisions of the Act. So, it is not an automatic work when the claimant is absent just to record that the compensation given is adequate and dispose of the matter.

2. A similar matter came up before this court in WPC 30331/06. It was a case where when the claimants did not present themselves before the Court, the Court just confirmed the order and it was challenging that order a writ petition was filed. The learned judge of this Court considered the entire case law on the subject and held that the reference court is not entitled to refuse to determine the amount of compensation. The factum of restoring a Land Acquisition reference does not arise because it cannot be dismissed for default. But, at the same time it is the duty of the Court to apply its mind and pass appropriate orders. Therefore, the judgment passed in both the cases are set aside as there is gross violation of law and since the Court did not follow the binding precedence. The reference court is directed to dispose of LAR Nos.48/01 and 49/01 in accordance with law and on merits after giving both sides reasonable opportunity to produce documents and evidence. Parties are directed to appear before Court on 23/7/07 and

the Court shall try to dispose of the matter as expeditiously as possible within a time frame of four months.

The writ petitions are disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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